

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

---

DWAYNE MILNE AND JACLYNN PAUL  
AS GUARDIANS OF B.M.,

File No. 22-CV-5017-LLP

Plaintiff,

vs.

DR. GREG GADEN, REBECCA LEEDS,  
HOLLIE HOFFMAN, CHARLIE SERSEN,  
KARN BAKER, BROOKE CHENEY, JAIMIE  
MUTTER, LEAH LUDWIG, JESSICA  
CULLUM, UNKNOWN STAFF AT  
KNOLLWOOD ELEMENTARY, DR. LORI  
SIMON, RAPID CITY AREA SCHOOL  
DISTRICT, RAPID CITY SCHOOL BOARD,  
SOUTH DAKOTA DEPARTMENT OF  
EDUCATION,

**RCASD Defendants’  
Motion to Dismiss**

Defendants.

---

Defendants, Dr. Greg Gaden, Rebecca Leeds, Hollie Hoffman, Charlie Sersen, Karn Baker, Brooke Cheney, Jaimie Mutter, Leah Ludwig, Jessica Cullum, Unknown Staff at Knollwood Elementary, Dr. Lori Simon, Rapid City Area School District, and Rapid City School Board (hereinafter “RCASD Defendants”), by and through their attorneys of record, respectfully move this Court for dismissal of the above-captioned action in its entirety against the RCASD Defendants, on the grounds and for the reasons that Plaintiffs’ complaint fails to state a claim upon which relief can be granted pursuant to FRCP 12(b)(6). This motion is supported by the *Memorandum in Support of RCASD Defendants’ Motion to Dismiss* filed herewith.

WHEREFORE, the RCASD Defendants respectfully request that the Court GRANT this motion and dismiss the action in its entirety as to the RCASD Defendants.

Dated this 9<sup>th</sup> day of June, 2022.

BANGS, MCCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY: /s/ Michael M. Hickey

MICHAEL M. HICKEY

SARAH BARON HOUY

ERIN SCOENBECK BYRE

333 West Boulevard, Suite 400

P.O. Box 2670

Rapid City, SD 57709-2670

(605) 343-1040

[mhickey@bangsmccullen.com](mailto:mhickey@bangsmccullen.com)

[sbaronhouy@bangsmccullen.com](mailto:sbaronhouy@bangsmccullen.com)

[erin@bangsmccullen.com](mailto:erin@bangsmccullen.com)

***ATTORNEYS FOR RCASD DEFENDANTS***

**CERTIFICATE OF SERVICE**

The undersigned certifies that on June 9, 2022, he caused a true and correct copy of the above to be served upon the person identified below as follows:

☐ First Class Mail      ☐ Overnight Mail  
☐ Hand Delivery      ☐ Facsimile  
☐ Electronic Mail      ☒ ECF System

Steven C. Beardsley / Conor P. Casey / Elliot J. Bloom  
BEARDSLEY, JENSEN & LEE, PROF. LLC  
4200 Beach Drive, Suite 3  
PO Box 9579  
Rapid City, SD 57709  
[sbeards@blackhillslaw.com](mailto:sbeards@blackhillslaw.com)  
[ccasey@blackhillslaw.com](mailto:ccasey@blackhillslaw.com)  
[ebloom@blackhillslaw.com](mailto:ebloom@blackhillslaw.com)  
***ATTORNEYS FOR PLAINTIFFS***

Robert B. Anderson / Justin L. Bell  
MAY, ADAM, GERDES & THOMPSON LLP  
503 South Pierre Street  
Pierre, South Dakota 57501-0160  
[rba@mayadam.net](mailto:rba@mayadam.net)  
[jlb@mayadam.net](mailto:jlb@mayadam.net)  
***ATTORNEYS FOR DEFENDANT DOE***

/s/ Michael M. Hickey  
MICHAEL M. HICKEY